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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/628,912	07/31/2000	Eugene B. Porter	64539-0215	5026

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EXAMINER

LE, DANG D

ART UNIT

PAPER NUMBER

2834

DATE MAILED: 08/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/628,912

Applicant(s)

PORTER ET AL. 

Examiner

Dang D Le

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 8-15 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 16-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 July 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 7/17/02 have been fully considered but they are not persuasive. Regarding applicant's argument for claim 5, it is noted that Schoen clearly shows the magnets (18) being attached to an inner surface of the housing (2) in Figures 1 and 2. The rejection is still deemed proper and repeated hereinafter.
2. Applicant's arguments with respect to claims 1-4 and 16-19 have been considered but are moot in view of the new ground(s) of rejection.

Election/Restrictions

3. Newly submitted claims 8-15 and 20 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claims 8-20 are directed to the method claims classified in class 29, subclass 596

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 8-15 and 20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "directly engaging

between the tabs and the magnets" recited in claims 1 and 16 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 16-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. Claim 16 recites the limitation "the initial space" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 5-7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schoen.

Regarding claim 5, Schoen shows a motor housing assembly (Figures 1-4), comprising:

- A motor housing (2);
- A pair of magnets (18) attached to an inner surface of the motor housing (2, Figures 1 and 2) in a spaced relationship to form two spaces that lie generally opposite each other;
- An armature (41) disposed in between the pair of magnets; and
- A brush holder (24) having a plurality of brushes (47) and two tabs (32) that fit within the two spaces formed by the pair of magnets to align the plurality of brushes with the magnets.

Regarding claim 6, it is noted that Schoen also shows the tabs (32) fitting within the two spaces in a sliding engagement.

Regarding claim 7, it is noted that Schoen also shows the pair of magnets and the tabs surrounding the circumference of the armature after the motor housing and the brush holder are assembled together (Figure 2).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-4 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schoen in view of Abbratozzato et al.

Regarding claim 1, Schoen shows a motor housing assembly (Figures 1-4), comprising:

- A motor housing (2);
- At least one pair of magnets (18) having opposite ends disposed within the motor housing in a spaced relationship to form at least one space therebetween; and
- A brush holder (24) having at least one tab (32) engaging the opposite ends of the magnets within at least one space.

Schoen does not show the tabs directly engaging the opposite ends of the magnets.

However, Abbratozzato et al. show the tabs (88) directly engaging (78) the opposite ends of the magnets for the purpose of positioning the brushes.

Since Schoen and Abbratozzato et al. are all from the same field of endeavor; the purpose disclosed by one inventor would have been recognized in the pertinent art of the others.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to engage the tabs directly the opposite ends of the magnets as taught by Abbratozzato et al. for the purpose discussed above.

Regarding claim 16, Schoen shows a motor housing assembly (Figures 1-4), comprising:

- A motor housing (2);
- At least one pair of magnets (18) having opposite ends disposed within the motor housing to define a space therebetween; and

- A brush holder (24) having at least one tab (32) engaging the opposite ends of the magnets within the initial space.

Schoen does not show the tab with substantially uniform width directly engaging the opposite ends of the magnets.

However, Abbratozzato et al. show the tab (88) with substantially uniform width directly engaging (78) the opposite ends of the magnets for the purpose of positioning the brushes.

Since Schoen and Abbratozzato et al. are all from the same field of endeavor; the purpose disclosed by one inventor would have been recognized in the pertinent art of the others.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to engage the tabs with substantially uniform width directly the opposite ends of the magnets as taught by Abbratozzato et al. for the purpose discussed above.

Regarding claims 2 and 17, it is noted that Schoen also shows the pair of magnets forming two spaces and the brush holder having two tabs to fit in the two spaces (Figure 4).

Regarding claims 3 and 18, it is noted that Schoen also shows the two spaces being disposed opposite each other and the two tabs on the brush holder are also disposed opposite each other.

Regarding claims 4 and 19, it is noted that Schoen also shows the pair of magnets being attached to an inner surface of the motor housing (2).

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Information on How to Contact USPTO

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dang D Le whose telephone number is (703) 305-0156. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7382 for regular communications and (703) 308-7382 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

DDL
August 22, 2002

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